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ABSTRACT

Recent trends in litigation involving child custody, parental rights, foster care, and child abuse draw heavily on interpretations of developmental research and theory. In a recent landmark case, a developmentalist testified on a number of issues for which scant developmental data were found. These issues included neonatal bonding and the development of attachments, consequences of separation from the mother and of subsequent reunion, maternal/infant relational qualities minimally necessary for normal development, maternal/infant interaction and relationships when the mother is schizophrenic, long-term consequences of rearing by a schizophrenic mother, and short- and long-term consequences of abuse during infancy. Inadequacies of currently available research to deal with these issues are discussed, and appropriate research strategies are defined. (Author/MP)

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Child Development Research In Court

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INTRODUCTION

Child development researchers have shown renewed interest in recent years in making contributions to the lives of real children as well as to the understanding of developmental theory. This interest has led us to pursue questions with more direct relevance in the real world than was characteristic of our field a decade ago. At the same time, our society's increasing awareness of the hurtful situations of many children has produced many urgent demands for assistance in making decisions that will affect children. Recent trends in litigation involving child custody, parental rights, foster care and child abuse draw heavily on interpretations of developmental research and theory. Researchers are joining clinicians as expert witnesses and as educators of legislatures and courts. Some of our efforts, however, have been either embarrassing or humbling as we discover the short-comings of our research or find ourselves unprepared for the adversary nature of legislative and judicial proceedings. It is important for us to share our experiences in attempting to apply child development research in these settings both to sharpen our interpretive skills and to inform our research efforts.

I had an opportunity recently to discover the scope of our ignorance in some areas of active research interest, particularly in regard to consequences of specific childrearing experiences. The case I participated in

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is a notable case in termination of parental rights; it involved me in the intersect of several research enterprises, questions of practice and policy issues.

THE CASE

In the case at hand, a ten-day old infant was found by a visiting nurse to have four burns on its back, apparently caused by a lighted cigarette and presumably inflicted by the mother. This is the first child, a male. The mother is in her twenties, married and a chronic schizophrenic who has been hospitalized several times since her mid-teens. Her mother is also a chronic schizophrenic; both have paranoid symptoms. Her father committed suicide when she was a young girl and apparently had a psychotic experience before the suicide. Her husband shows signs of neurological disfunction, suffers from epilepsy and has had difficulties with the law. Both are high school graduates.

The visiting nurse took the child and the mother to the hospital for treatment of the burns. The Pediatrics staff insisted that the child be hospitalized and filed a report with the Department of Social and Rehabilitation Services, which immediately petitioned for custody. Temporary custody was granted and the child was discharged from the hospital into foster care. On hearing a psychiatrist's evaluation of the mother, the Department petitioned for immediate termination of parental rights so they could place the child for adoption. This was an unprecedented petition in their experience and the social worker requested that I testify on behalf of the Department and the child in support of the petition. During the period of foster care, the parents visited with the child in the presence

of the social worker to maintain whatever ties were being developed and to allow an opportunity to evaluate the parents and their problems.

The applicable state statute under which the petition was filed is a section of the law giving the Department of Social and Rehabilitation Services the right to be granted custody and to petition for changes in custody and residual rights. That statute requires the juvenile court to consider the best interests of the child and dictates examination of the following:

1. The interaction and interrelationship of the child with his [sic] natural parents, his foster parents if any, his siblings, and any other person who may significantly affect the child's best interests;
2. The child's adjustment to his home, school, and community;
3. The likelihood that the natural parent will be able to resume his [sic] parental duties within a reasonable period of time; and
4. Whether the natural parent has played and continues to play a constructive role, including personal contact and demonstrated love and affection, in the child's welfare. (V.S.A., Chapter 12, Title 33, Section 667)

The issues the court had to address then, were:

1. Can these parents care for this child now or within a "reasonable" time?

In this case the psychiatrist concluded that the parents, in particular the mother, could not. But to support that finding, the court had to determine what are parental duties. The second question then was:

2. What parental behaviors or characteristics are minimally necessary for normal development--not optimal but normal?

This is a standard undergraduate examination question; an answer requires major interpretation of research literature. I did testify on that issue but I won't present that here. The next question of fact followed:

3. How does this mother interact with this child and, generally, how do mothers with her particular characteristics interact with their children?

The social worker testified that the mother had unreasonable expectations for her child and seemed to be alternately intrusive and neglectful. The nurse confirmed that the care provided by the mother was inadequate and that during her visits the house was a mess and the mother disorganized. I turned to the research literature for an answer to the more general question:

4. What is the nature of mother-infant interaction when the mother is a schizophrenic?

Interest in the process of transmission of schizophrenia is long-standing; there is reasonable consensus that both genetic predisposition and appropriate (or inappropriate) learning experiences should be examined. There are now several studies of high-risk children designed to identify the environmental variables associated with development of schizophrenia and other psychiatric disorders. Unfortunately, in most of these studies little effort has been made to examine the actual parenting care experienced by high-risk infants. Many investigators do not report whether the child lived with the mother as an infant. The current intense research interest in mother-infant interaction has not yet found its way into the study of parents with psychiatric disturbances.

Schachter and his colleagues (Ragins, et al., 1975; Schacter, et al., 1977) have in their observations a fair amount of data about specific

interaction video-taped in the laboratory. These and similar studies as yet include insufficient data on normal mother-child interactions and on outcomes for us to say any more than that the schizophrenic mothers seem to be intrusive and to interact more but less contingently with their infants. At this time we can only speculate about the effects of this interaction on the infant.

5. What are the effects of anti-psychotic medication on the mother-infant interaction?

The effects of medication are crucial to the issue of whether the mother can carry out parental responsibility. Excepting general discussion of the side effects of phenothiazines this question has been unasked in the research literature. Perhaps it is too early in our understanding of parent-child interactions to introduce this variable but it is an important one in this case. Anti-psychotic medication has been used routinely with schizophrenics for nearly two decades, but I found no studies of its effects on childrearing competence.

The choices

To weigh the best interests of the child, the court had to examine the alternatives possible for this child. Simply, these included (a) rearing by the natural parents, perhaps with supervision; (b) rearing by foster parents and then returning at some unspecified time to the natural parents; (c) foster care for some unspecified period of time and then eventual placement in a permanent adoptive home; and, (d) immediate placement in an adoptive home, which was the recommendation of the Department. Consideration of these alternatives led to another set of developmental questions.

6. What are the consequences of being reared by a schizophrenic mother?

The overwhelming majority of our studies of schizophrenics as parents are primarily incidence studies and are designed to reveal elements of the transmission of schizophrenia (cf., Anthony, 1969; Garmezy and Streitman, 1974; Grunebaum, et al., 1975; Landau, et al., 1972). One consequence of being born to a schizophrenic mother is that one has a one-in-ten chance of growing up to be a schizophrenic, regardless of by whom one is reared (Heston, 1966). We have not yet reached the point where we can predict which children will be schizophrenic but a number of projects are underway (cf., Gamer, et al., 1976, 1977; Garmezy, 1977).

A consequence of being reared by a schizophrenic mother is that one has a thirty-to-fifty percent probability of developing behavioral or personality problems as one is growing up--if one survives at all (cf., Anthony, 1969). In an early study by Kallman (1938), for example, the mortality rate for infants reared by schizophrenic mothers is reported as being as high as 45%. Sobel (1961) also reports high mortality rates and injury rates for children of schizophrenic mothers. The infanticide literature is distressingly concerned with schizophrenic mothers (Browne and Palmer, 1975; Myers, 1970; Resnick, 1970). Unfortunately, in most studies there are sample selection problems. Suffice it to say that while one percent of the mothers in the country may be schizophrenic, far greater percentages of schizophrenics appear in the studies of parents of infants who are killed. It is very important, however, to note that all pertinent studies either were conducted prior to the general use of phenothiazines for treatment of schizophrenia or do not report whether the infant-killing or abusing schizophrenic mothers were receiving drug treatment.

One of the best indications of the experience of being raised by a schizophrenic mother, again prior to use of phenothiazines, is presented by Manfred Bleuler (1974), who has followed the families of 208 schizophrenics over two generations. Bleuler reports that while a large percentage of the children of schizophrenics grow up coping very well, he is impressed in talking with them by the fact that they have experienced what he calls "atrocious" childhoods. He does not report mortality rates or causes of death for children in his study. Because the variable of drug therapy has not been included, the studies available cannot be used to predict the consequences for current and future children of schizophrenics.

So much for research on schizophrenic mothers. Now what about the acts that resulted in court action?

7. What are the consequences of being abused as an infant?

We find that there is some similarity in the consequences of childrearing by a schizophrenic and childrearing by an abusive parent, though again we have very little data on the parent-child interaction (cf., Hyman, 1977; Kline, 1977; Martin and Beezley, 1977). The consequences of growing up with intermittent or constant fear of injury are not documented in our studies of child abuse (cf., Green, 1978). Helfer reports a three to four percent mortality rate for children who are abused in the early years and a 25 to 30 percent morbidity rate. Elmer (1977) recently found little difference between children abused as infants and others. Her study has several methodological features that restrict its usefulness, however. Morse (Morse, Sanler, and Friedman, 1970) has reported data that I interpret to mean that children abused as infants have higher subsequent risk than children abused later in life. Since our attention is still

focused on prediction and prevention of child abuse, the actual experience and its consequences have been studied little.

The court also has to worry about the effects of its own actions.

8. What are the consequences of foster care in infancy?

We find no specific literature on the consequences of foster care in infancy. For prolonged foster care of <u>older</u> children there is increasing evidence that the results are not good. Consequences reported include self-consciousness, a sense of isolation, a sense of not belonging, of being different, difficulty in establishing a sense of identity later in life and low self-esteem (Frank, 1977; Murphy, 1974). Compared to adoption, long-term foster care cannot be recommended.

In order to determine what was the best course for this infant, the court was encouraged to ask several questions about attachment.

9. What is the outside age limit for transferring an infant from one set of parents to another?

Obviously there is no "outside" age limit. One can do it until the child is no longer in need of parents. If we transform the question, however, to ask about consequences of a change of parental figures in infancy, Leon Yarrow and his colleagues (1971; 1973) tell us that there is little observable upset up to about three months for infants transferred from foster care to adoptive care. After three months the proportion of infants manifesting distress increases with age up to 7 months, when <u>all</u> infants show distress. The severity and duration of the reaction increases with advancing age. For children who experience this transfer of parental figures and attachment after six months of age the consequences are reduced depth of relating, reduced social effectiveness, and a decrement in social discrimination at age 10. The experience of change in parents during

infancy reduces the capacity to establish different levels of relationships and thus encourages the formation of indiscriminate, inappropriate relationships later in life. We do not know yet what the adolescent course for Yarrow's subjects has been.

Since the element of formation of attachments was of concern and raised by the preceding question, the court asked:

10. When are specific attachments formed?

We all know from our undergraduate days that they are evident at six to eight months. But the court also asked:

11. How late can specific attachments be formed?

The simple answer is, "We don't know." Children adopted at six years, for example, do develop attachments. We have little information about the process by which this happens. We don't know whether the attachments they form are different from those formed in infancy, though common sense tells us they are.

12. What are the consequences of permanent loss of an attachment figure at different periods of life?

Though we have clinical descriptions of the immediate grief reaction at different ages, Yarrow's research again is all that we have on the long-term consequences.

13. What are the short and long-term effects of returning to a previous attachment figure?

Returning to a previous attachment figure is probably a positive experience but the loss of the intervening attachment is negative; one has to weigh those together. I found no research on reactions to or long term consequences of separation and reunion of this sort.

After my discussion of the results of Yarrow's studies and the effects of foster care on self-esteem and social competence, the judge threw me what I thought was a pretty sneaky curve:

14. Are the consequences of these experiences of such magnitude that "reasonable men" will not differ on their importance to the individual?

This question raises fundamental issues in application of research to real life. Can we generalize the often small differences between group means we find to the prediction of behavior? Do the differences we find mean anything? Are they valid discriminators, related to other important variables?

The obvious answer to the judge's query is that, of course, "reasonable men" will differ. And that brings us back full circle to what is minimally necessary for growing up normal--not optimal, but normal.

Parenthetically, I may add that there is one legal question of interest which was not raised specifically in this case.

15. Can the rights of both parents be terminated if one is schizophrenic without proving the other also to be incompetetent?

The father in this case did not appeal on that basis or any other so there was no test. Perhaps if he had been willing and able to parent, there would have been no original petition.

RESEARCH IMPLICATIONS

It is simple to suggest on the basis of this case that "another neglected group"--schizophrenic child-abusers--should be studied. The population however, is probably too small to make that productive. Less simply, we must look more closely at the process of childrearing and its

variations and at the consequences of those variations. In spite of the principle of examining the best interests of the child, neglect, abuse and custody disputes will be decided not on the basis of which parent or alternative is better but whether one is harmful. I have strong suspicions that most cases involve the choice of least evil. Judges will favor attachments already formed and the parental relationship against relief from a potentially destructive childrearing practice. Indeed, Goldstein, Freud and Solnit (1978) argue precisely that position. If we are to assist courts in determining the least detrimental alternatives for children, research must document the real consequences of disruption of bonds and of early abuse at the hands of parents. researchers must investigate more closely the process of parent-child interaction and tie it to specific consequences. I do not need to be reminded that this has been a major concern of child development researchers from the beginnings of our field. I simply point out that the parents we have studied, the consequences that we have examined and the sophistication of our design and analyses have not yielded data pertinent to cases of judical interest or data that will stand up in an adversary proceeding. In such proceedings, decisions are made on the basis of predictions about individual parents and children as opposed to general conclusions about middle versus lower income parents, or fathers versus mothers.

The progress of deinstitutionalization and the increased efficacy of medication mean that there will be more potential parents with unusual parenting styles. If current and proposed longitudinal studies of high-risk children and their parents are to answer some of the questions the court raised, their designs must include the specifics of parent-child interaction and other aspects of the care of the child. They must combine

data on the process of child-rearing with demographic and outcome data, such as on infant abuse and death, and with case data on parents, including medication and course of parental pathology. There must be aggressive follow-up and investigation of causes of subject attrition. Current emphasis by social service agencies on making permanent dispositions for children as soon as possible will also lead to more disputable recommendations for termination of parental rights. Studies of attachment and the formation of new bonds and investigation of long-term consequences both of foster care and adoption will be very important in these cases. The current state of child development research does not provide adequate basis for recommendation.

CONCLUSION

The research needed to answer the questions raised in this case is of intrinsic interest. The highly empirical observational, natural history approach is finding renewed respectability among child development researchers. In some instances, it is a small matter to add dimensions to on-going studies that have a different primary question. In other instances, we need quite different research efforts and a new view-point for research being done by practitioners. As child development researchers address social issues and the impacts on children of social change, policy and legislation, and as we take research into legislative and judicial settings, we are forced to design research pertinent to judicial and legal questions. Courts make decisions on the basis of strong professional predictions and conclusions, not weak correlations and theoretical subtleties. Decisions are made in an adversary setting, assuring that research is subject to alternative interpretation. We must be prepared to provide data

that are germane and interpretations that are as objective as possible. We must continue to counter the misinterpretations of research that are thrown about and use our best professional and scientific judgments, aware of their limitations and that they are subject to revision.

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CHILD DEVELOPMENT RESEARCH IN COURT

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Abstract

Recent trends in litigation involving child custody, parental rights, foster care, and child abuse draw heavily on interpretations of developmental research and theory. In a recent landmark case a developmentalist testified on a number of issues for which scant developmental data were found. Developmental issues involved included

a. neonatal bonding and the development of attachments;

b. consequences of separation from the mother, and of subsequent reunion;

c. maternal-infant relational qualities minimally necessary for normal development;

d. Maternal-infant interaction and relationships when mother is schizophrenic.

e. Long-term consequences of rearing by a schizophrenic mother;

f. short and long term consequences of abuse during infancy.

The direct, concrete, questions posed by the court add urgency to research that already has theoretical and practical interest. Inadequacies of currently available data are discussed and appropriate research strategies defined.